

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

**PUBLIC NOTICE OF HEARING OR PANEL HEARING
PROPOSED ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2007-0076
FOR
NATURAL SELECTION FOODS, LLC
SAN BENITO COUNTY**

Purpose of Hearing

On **August 23, 2007**, at **10:00 a.m.**, the Central Coast Regional Water Quality Control Board (Water Board) will consider, in a public hearing, whether to issue proposed Administrative Civil Liability Order No. R3-2007-0076. The Complaint alleges violations of Waste Discharge Requirements Order No. 99-99, including reporting violations, excess process wastewater flows, discharges to disposal fields outside of permitted disposal areas, and direct discharges to San Juan Creek. The Water Board may issue the proposed Order, increase or decrease the proposed liability amount, or refer the matter to the Attorney General for civil proceedings.

The public hearing on **August 23, 2007** will commence at **10:00 a.m.** or as soon thereafter as practical, or as announced in a Board meeting agenda. The meeting will be held at the **Salinas City Council Chambers, 200 Lincoln Avenue, Salinas, California 93901.**

If for any reason a quorum of the Water Board is not available on August 23, the Water Board will conduct a panel hearing at that time. (See, Water Code § 13228.14.) The hearing panel will provide a recommendation to the Water Board for consideration at its September 7, 2007 meeting in San Luis Obispo. The Water Board will take a final action at the September 7 meeting or thereafter. Absent unusual circumstances, the Water Board will not accept evidence, argument or policy statements after the close of the panel hearing.

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Water Board may be found at Title 23 of the California Code of Regulations, section 648 et seq., and is available at http://www.waterboards.ca.gov/water_laws/index.html or upon request. Except as provided in section 648(b), Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to adjudicatory hearings before the Water Board.

Hearing Participation

The Administrative Procedure Act¹ and due process considerations require the Board to separate prosecutorial and adjudicative functions in “prosecutorial” matters. A Prosecution Team, comprised of Water Board staff, will serve as the complainant in the proceedings and is a designated party in the proceedings. The Prosecution Team consists of Michael Thomas, Assistant Executive Officer; Harvey Packard, Enforcement Coordinator; and Matt Thompson, Water Resource Control Engineer. The Advisory Team will assist the Water Board Chair in prehearing procedural matters, and will advise the Board during the hearings and in deliberations on the evidence presented in the proceedings. The Advisory Team consists of Roger Briggs, Executive Officer and Lori Okun, Senior Staff Counsel. Designated parties or their representatives shall not engage in *ex parte* contacts² with any member of the Advisory Team.

Participants at the hearing are either designated as “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses. Designated parties are subject to cross-examination. Interested persons may present non-evidentiary policy statements, and are not subject to cross-examination. Interested persons may not cross-examine parties, but may be asked to respond to clarifying questions from the Water Board, the Advisory Team, or others, at the discretion of the Water Board.

The following participants are hereby designated as parties at the hearing:

Water Board Prosecution Team Natural Selection Foods, LLC

All other persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing no later than **August 10, 2007**. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Water Board affect the person), and a statement explaining why the party or parties designated above do not adequately represent the person’s interest. The requesting party will be notified at or before the hearing whether the request is granted. ***It is not necessary to be a designated party in order to submit written comments to the Water Board or to speak at the hearing.***

The Chair may limit time for parties’ presentations and statements by interested persons. Designated parties requesting more than twenty minutes for presentations should contact Roger Briggs by **August 17, 2007, 5:00 p.m.** to request additional time.

¹ Ca. Gov. Code §§ 11425.30, 11430.10-.80.

² Communications regarding non-controversial procedural matters are not prohibited.

Written Evidence, Testimony, Exhibits and Policy Statements

By August 17, 2007, 5:00 p.m., each designated party shall submit in writing or by electronic mail, the following information to Roger Briggs (address below), with a copy to Lori Okun (address below):

1. All written evidence and exhibits to be introduced at the hearing. This includes copies of photographs and other evidence to be included in PowerPoint or other presentations, except as provided below.
2. Any objections regarding the hearing, including any matter set forth in this Hearing Notice, and any other legal objections (other than evidentiary or procedural objections that arise at the hearing). Objections (other than objections that arise at the hearing) must be submitted in writing.
3. All written legal argument.

At the same time, each designated party shall send one copy of the above materials to each of the other designated party or parties at the address or addresses provided below. Copies of general vicinity maps or large, non-technical photographs are not required to be submitted prior to the hearing. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Late submissions will not be accepted except upon a ruling by the Chair. The Chair will not approve a late submission if doing so would prejudice any party or the Central Coast Water Board, but may modify this rule if a party demonstrates severe hardship. The Chair will rule at or before the hearing. Late submissions that consist of evidence (as opposed to policy statements or comments) will generally be deemed prejudicial unless all designated parties have time to consider the evidence before the hearing.

Contact Information

For Natural Selection Foods:

Joseph Torquato, 1721 San Juan Highway, San Juan Bautista, California 95045, (831) 623-7880, Jtorquato@ebfarm.com

For the Prosecution Team:

Matt Thompson, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, (805) 549-3159, Mthompson@waterboards.ca.gov

For the Board Advisors:

Roger Briggs, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, (805) 549-3140, Rbriggs@waterboards.ca.gov

Lori Okun, 1001 "I" Street, Sacramento, CA, 95812-0100, (916) 341-5165, Lokun@waterboards.ca.gov

Questions

Questions concerning the hearing may be addressed to Roger Briggs or Lori Okun.

Evidentiary Documents and File

The Complaint, proposed Order, related evidentiary documents and comments received are on file and may be inspected or copied at the Water Board office at the above Water Board address.